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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
2002 Biennial Regulatory Review – Review of the)	MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and)	
Other Rules Adopted Pursuant to Section 202 of)	
the Telecommunications Act of 1996)	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple Ownership)	MM Docket No. 01-317
of Radio Broadcast Stations in Local Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

TO: Chief, Media Bureau

COMMENTS ON REQUESTS FOR EXTENSION OF TIME

Tribune Company (“Tribune”), by its attorneys, hereby comments on the Request for Extension of Time filed October 28, 2002 by the Network Affiliated Stations Alliance (“NASA Request”) as well as other requests for extension of the filing deadlines in the above-captioned proceeding.¹ Tribune laments the inclusion of the newspaper-broadcast cross-ownership rule

¹ See Institute for Public Representation for National Organization of Women, Motion for Extension of Time filed October 22, 2002; Minority Media Telecommunications Council Motion for Revision of Procedural Dates, Expansion of the Scope of the Proceeding, and Inclusion of Additional Studies for the Record filed October 10, 2002; Media Access Project letter of October 17, 2002 saying the studies are not enough and that they support request for an extension of time; Center for Digital Democracy (representing Newspaper Guild, CWA, Writers Guilds of America East, American Federation of Television and Radio Artists, Seattle Times, Assoc. of Independent Video and Filmmakers), Motion for Extension of Time filed October 22, 2002; Department of Professional Employees, AFL-CIO, Motion for Extension of Time filed October 23, 2002.

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(“Newspaper Rule”) in this proceeding because that rule is ripe for repeal or relaxation by the Commission based on a record that is complete and has been complete for almost a year.’ Tribune takes no position on the appropriateness of the extension requests for purposes of evaluating rules other than the Newspaper Rule, but strenuously asserts that there is no need for an extension of time for interested parties to prepare comments on the Newspaper Rule. Indeed, the Newspaper Rule is ripe for review and the Commission has received comments and replies in multiple proceedings.³ Nothing in the studies released by the Commission’s Media Ownership Working Group in October, 2002, provides substantially new or different empirical information from that previously developed and produced in the record.⁴ If the Commission grants any extensions at all, Tribune believes it is incumbent on the Commission to take action separately and expeditiously on the Newspaper Rule.

The extension request calls into question the ability of the Commission to adhere to its stated intention to issue by “spring 2003”⁵ the several decisions that are involved in this omnibus review. Indeed, these extension requests are the first of what is likely to be several rounds of requests for various interim actions. As evidenced by the pending requests, many organizations believe it is useful for a variety of reasons to delay the Commission’s decisions. Given the controversy even within industry groups on some of the other ownership rules, the Commission may find itself erring on the side of granting extensions and handling interim

² *Cross-Ownership of Broadcast Stations and Newspapers; Newspaper/Radio Cross-Ownership Waiver Policy*, 16 FCC Rcd 17283 (2001) (“*Newspaper-Broadcast NPRM*”). Comments were initially due December 3, 2001, The reply date was ultimately extended to February 15, 2002.

³ *Newspaper/Radio Cross-Ownership Waiver Policy*, 11 FCC Rcd 13003 (1996) (“*Notice of Inquiry*”); *Newspaper-Broadcast NPRM*, *supra* n.2.

⁴ See e.g., D. Pritchard, *Viewpoint Diversity in Cross-Owned Newspapers and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign*, October, 2002.

⁵ D. Ho, “Regulators to take a broad look at rules governing media ownership,” Associated Press, June 17, 2002,

petitions and pleadings. It is inevitable that the parties opposed to change will attempt to force the Commission to play by a clock that is not what the Commission had intended or had hoped for.

These practical concerns plus the fact that the Newspaper Rule is in a different procedural posture from the other rules under review warrant separate review and action by the Commission. Since its adoption over 25 years ago, no Commission has completed its assessment of whether there continues to be a public interest justification for the Newspaper Rule. It took six years for the Commission to tee up the Newspaper Rule for review and action intended for 2001 despite the Commission's repeated indications that it would undertake and complete just such a proceeding.⁶ And, as recently as June 4, 2002, the Chairman of the House Commerce Committee, Honorable Billy Tauzin and Chairman of the House Subcommittee on Telecommunications, Honorable Fred Upton, wrote to Chairman Powell expressing their disappointment with the Commission's decision to defer "what should be an immediate repeal of this outdated rule."⁷ So, too, when the Commission issued its Notice of Proposed Rulemaking in this proceeding, Commissioner Martin concurred saying, "We now have a full record on the

⁶ In 1996, the Commission indicated that it would "proceed expeditiously with an open proceeding to consider revising our newspaper broadcast cross-ownership policies." *Capital Cities/ABC, Inc.*, 11 FCC Rcd 5841, (1996) "There is reason to believe that . . . the [Newspaper Rule] is right now impairing the future prospects of an important source of education and information: the newspaper industry." *Id.*, Separate Statement of Chairman Reed E. Hundt. In 1997, Commissioners Chong and Quello criticized the rule, Chong calling for a reexamination of the rule and Quello saying the rule is "out-dated, over-regulatory, and all too often flies in the face of common sense." *Stockholders of Renaissance Communications*. 12 FCC Rcd. 11866, 11894 (1997). In 2000, Commissioners Furchtgott-Roth and Powell dissented from the Commission's decision to retain the Newspaper Rule, with Commissioner Powell calling for the Commission to undertake "a proceeding that would look critically at how the significant and far reaching changes in the video marketplace since 1975 have eviscerated the need for what is an extremely prohibitive regulation." *1998 Biennial Regulatory Review*, Report, 15 FCC Rcd 11058, (2000) Separate Statement of Commissioner Michael Powell at p. 15

⁷ Television Digest, July 1, 2002.

extent to which the newspaper/broadcast rule should be retained, modified or eliminated, and we have had almost a year to review the record. Regardless of what the Commission concludes is the appropriate action to take, the affected parties deserved to be spared further delay in knowing that answer. I believe we could have concluded this proceeding by the end of the year [2002].”⁸

The Commission’s decision to roll all of the national and local media ownership rules into one omnibus proceeding has adversely affected newspaper owners every time a broadcast station comes up for sale in a newspaper market. As Commissioner Martin pointed out, “Contrary to claims that acting on this one rule would be unfair to other relevant industries, the Commission long ago gave an advantage to other licensees by relaxing their local ownership restrictions . . . [I]t is the newspaper industry that has been prejudiced by the Commission’s failure to act on the 1998 and 2000 Biennial Review Reports’ conclusions that this rule should be reviewed and likely modified.”⁹ Newspaper companies like Tribune that wish to participate more fully in the broadcasting business have been handicapped for 25 years and remain so with every passing month. Having been told in June 2002 that the Commission would resolve the pending proceeding on the Newspaper Rule by the Spring of 2003, the Commission now faces the first flurry of requests -- some would stretch the proceeding out for at least an additional four months -- that could extend significantly the Commission’s resolution of this issue.

Moreover, nothing prevents the Commission from making its decision on the Newspaper Rule now by separating it from the other rules in this *Biennial Review*. Even the NASA Request

⁸ 2002 Biennial Regulatory Review—Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; Cross-Ownership of Broadcast Stations and Newspapers; Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets; Definition of Radio Markets, Notice of Proposed Rulemaking, Adopted September 12, 2002, (“*Biennial Review*”), Separate Statement of Commission Kevin J. Martin, Approving in Part, Concurring in Part, at 2.

⁹ *Id.*

points out that it “regrets that its request for extension of time may delay resolution of issues involving local ownership rules, where some of the proceedings have been ongoing for a year or more and a record already has been developed. . . There are ways that the Commission could avoid the slowest item in the package of rules from becoming the pacing item for resolving all of the rules at issue in this proceeding.”” The Commission refrained from “breathing new life” into the local cable-broadcast cross-ownership rule after it was vacated by the appellate court hut did not rule out the possibility that issues involving cable-broadcast cross-ownership would be addressed in larger context of the broadcast proceeding.” So too, could the Commission take action now on the Newspaper Rule as a matter separate from any consideration of newspapers as “voices” or other involvement in a methodology later devised by the Commission to determine limits on media ownership.

For these reasons, Tribune asks that if the Commission grants any extension of time for filing comments in this proceeding that it take action on the Newspaper Rule separately to complete its review now.

Respectfully submitted,

TRIBUNE COMPANY



R. Clark Wadlow
Anita L. Wallgren
Sidley Austin Brown & Wood LLP
1501 K Street N.W.
Washington, DC 20005
(202) 736-8000
Its Attorneys

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¹⁰ NASA Request at 2-3.

¹¹ “FCC to Overhaul Broadcast Ownership Rules Adopted Decades Ago”, *Warren’s Cable Regulation Monitor*, September 23,2002.